THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.27425 OF 2005

Dt.29.12.2005

Between:

Gandhi Apparao … Petitioner

And

The Joint Collector, Visakhapatnam District

And two others. … Respondents

ORDER:

Petitioner questions the order of the first respondent dated 12.12.2005 made in proceedings No.CC141/2005/CSR-5 in passing stay orders under Section 6-A of the Essential Commodities Act (for short 'the Act') directing the Mandal Revenue Officer, Atchutapuram, to dispose of the seized stocks to the cardholders, alleging that it is a final order passed without following the due procedure prescribed under Section 6-B of the Act.

Heard the learned counsel for the petitioner as well as the learned Government Pleader for Civil Supplies.

On getting instructions, the learned Government Pleader for Civil Supplies submits that show cause notice under Section 6-B of the Act has been issued calling upon the petitioner to file his explanation

giving him reasonable opportunity of hearing and he has yet to submit explanation and in the meanwhile application to release the said stocks is also filed on 14.12.2005 and therefore it cannot be said that the impugned order dated 12.12.2005 is a final order, but it is only an interim order pending enquiry under Section 6-A of the Act.

The learned counsel for the petitioner submits that so long as the authorization of the petitioner is not suspended or cancelled, distributing the said seized essential commodities through the Mandal Revenue Officer may not be just and proper.

In so far as the stocks, which have not been seized, I am of the opinion that the petitioner is entitled to distribute the said essential commodities as long as his authorization will not be suspended or cancelled. But, in so far as the seized stocks are concerned, I do not find any illegality in the said action of the Joint Collector in distributing the said essential commodities to the cardholders through the Mandal Revenue Officer.

Having regard to the facts and circumstances of the case, as the enquiry under Section 6-A of the Act is pending and in view of notice under Section 6-B of the Act, it cannot be said that the impugned order is a final order. In view of the aforesaid reasons, the first respondent is directed to consider and dispose of the proceedings under Section 6-A of the Act after considering the explanation and also consider and dispose of the application filed by the petitioner on 14.12.2005. In so far as the essential commodities, which have not been seized, are concerned, which are not the subject matter of the proceedings under Section 6-A of the Act, the petitioner shall be permitted to distribute the same as long as the authorization of the petitioner is not suspended or cancelled.

The writ petition is disposed of accordingly. No costs.

(V.ESWARAIAH, J.)

29.12.2005

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